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FEDERAL COMMUNICATIONS COMMISSION
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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

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In the Matter of)
)
Preparation for International)
Telecommunication Union World) IC Docket No. 94-31
Radiocommunication Conferences)

**OPPOSITION OF LORAL/QUALCOMM PARTNERSHIP, L.P.
TO PETITION FOR RECONSIDERATION**

Loral/QUALCOMM Partnership, L.P., ("LQP"), hereby opposes the Petition for Partial Clarification and Reconsideration filed in the above-captioned proceeding by the Association of American Railroads ("AAR").¹

LQP has been licensed by the Commission to construct, launch and operate Globalstar, a 48-satellite non-geostationary mobile satellite system (MSS) for provision of voice, data and facsimile service throughout the world.² Pursuant to this license, LQP is authorized to construct, at its own risk, the Globalstar feeder downlinks in the 6 GHz band. LQP's use of spectrum in the 6 GHz band for its feeder downlinks requires adoption of an allocation for MSS feeder links in this band at the upcoming WRC-95; the Commission and the United States support

¹ Petition for Partial Clarification and Reconsideration of Report in IC Docket N. 94-31, filed July 17, 1995 by the Association of American Railroads.

² Loral/QUALCOMM Partnership, L.P., 10 FCC Rcd 2333 (Int'l. Bur. 1995).

this allocation.³ LQP thus has a significant interest in AAR's Petition.

AAR's Petition is premature, inappropriate in this proceeding, and unsupported by any technical analysis. Consequently, it must be dismissed or denied.

I. BACKGROUND

The Commission, on June 15, 1995, adopted a Report in the above-captioned proceeding, which provides recommended U.S. Proposals for the 1995 World Radiocommunication Conference (WRC-95).⁴ This Report was developed by the Commission following the conclusion of an Industry Advisory Committee as well as public comment on the technical, operational and procedural aspects of the topics on the WRC-95 agenda, "the main focus of which is on MSS [Mobile-satellite service]."⁵

The Commission stated that its "primary proposals for WRC-95 seek to designate spectrum for MSS feeder links, to obtain additional global spectrum allocations for MSS service links, and to reduce the technical and operational constraints on current MSS allocations."⁶ According to the Commission's Report, the recommended U.S. proposals are based on the work of the Industry Advisory Committee, comments received in response to its Notices of Inquiry, and U.S. participation in international preparatory activities for WRC-95.⁷ The Report was

³ See Preparation for International Telecommunication Union World Radiocommunication Conferences, (WRC-95 Report), IC Docket No. 94-31, FCC 95-256, released June 15, 1995, at paras. 49-51, and Appendix 1, Section C, pages 2-5; United States Proposals for the 1995 World Radiocommunications Conference, at 163-64, 170-72 (July 11, 1995).

⁴ See WRC-95 Report, *supra*, note 3.

⁵ Id., at para. 3.

⁶ Id., at para. 2.

⁷ Id., at footnote. 1.

utilized, in conjunction with input from and coordination with other U.S. government agencies, to develop final U.S. proposals to WRC-95.⁸ These proposals have now been forwarded to the International Telecommunication Union for dissemination to administrations throughout the world. In addition, the U.S. proposals are being promoted throughout the world in bilateral and multilateral meetings.

The AAR, in its Petition for Partial Clarification and Reconsideration, requests that the Commission "reconsider its proposal to allocate spectrum at 6 GHz for MSS feeder links."⁹ In addition, the AAR urges that, in the event the 6 GHz band is "designated internationally for NGSO Mobile Satellite Service feeder link use" the Commission should "clarify and strengthen its commitment to protect the fixed microwave licensees' rights to occupy the 6 GHz band."¹⁰ Specifically, the AAR requests the Commission "to guarantee that the status of the FS systems will not be downgraded or their system reliability compromised" in the event the 6 GHz band is allocated for NGSO MSS feeder links.¹¹

II. AAR'S PETITION SHOULD BE DISMISSED OR DENIED AS PREMATURE

AAR's Petition should be dismissed or denied because it seeks relief which the Commission cannot provide within the context of the WRC-95 Preparatory Proceeding. AAR asks for relief which should be sought within the context of a U.S. domestic allocation proceeding, in the event WRC-95 allocates the 6 GHz band for NGSO MSS feeder links. Domestic sharing considerations between services with international allocation are appropriately considered in the context

⁸ See U.S. Proposals, supra, note 3.

⁹ Petition, at p.1.

¹⁰ Id.

¹¹ Id., at p. 3.

of a domestic rulemaking.

The Commission notes, in the Report, with regard to another sharing situation that "specific coordination procedures and protection criteria for shared use of the band" would be addressed domestically in the event an allocation were to be adopted at WRC-95.¹² Thus, the Commission already has identified domestic allocation proceedings as the appropriate venue for consideration of concerns such as those raised by the AAR.

To address AAR's petition at this time would be premature and wasteful of the Commission's resources as well as those of parties that may participate in the proceeding. Accordingly, AAR's Petition should be dismissed or denied as premature.

III. AAR HAS PROVIDED NO TECHNICAL BASIS FOR RECONSIDERATION OF U.S. PROPOSALS FOR NGSO MSS FEEDER LINKS IN THE 6 GHz BAND

AAR has provided no technical basis for reconsideration of the U.S. proposals to allocate portions of the 6 GHz band for NGSO MSS feeder links in the space-to-Earth direction. AAR expresses concern about potential spectrum sharing between NGSO MSS feeder links and Fixed Services in the 6 GHz band but provides no technical analysis to support the claim that spectrum sharing may be difficult. Thus, AAR provides no information on which the Commission could reconsider its decision.

AAR voices concern about the Commission's indication that displaced fixed microwave licensees now operating in the 2 GHz bands allocated for PCS in the U.S. would be given priority in the 6 GHz band.¹³ But, these concerns fall far

¹² WRC-95 Report, at para. 55; see also id., at paras. 20-21.

¹³ See id., at para. 53.

short of any technical basis for assuming that there may be sharing difficulties between NGSO MSS feeder links and the Fixed Services in this band. The Commission's stated intent to provide priority in the 6 GHz and 11 GHz bands to the relocated 2 GHz microwave licensees is simply not, contrary to AAR's assertions, a tacit acknowledgement "that sharing is problematic."

In fact, all the technical preparations for WRC-95 have demonstrated that NGSO feeder downlinks operating in the 6 GHz band would not cause unacceptable interference to terrestrial fixed services. The Commission cited these efforts in its Report where it states:

[w]e note that the ITU-R study groups and the CPM provide extensive study and discussion of technical factors and limits that would facilitate NGSO MSS feeder links sharing with the fixed services. This work can form a basis for any additional studies needed to address specific fixed service concerns in specific frequency bands. However, this should not be a hindrance to making spectrum available internationally for feeder links at WRC-95.¹⁴

AAR has offered no technical information which refutes the findings of the WRC-95 Conference Preparatory Meeting that sharing is feasible, nor provides technical information which could be used by the Commission to develop appropriate sharing rules within a domestic allocation proceeding.¹⁵

¹⁴ Id., at para. 54.

¹⁵ The MSS community has met with FS users to discuss sharing issues and will continue to work to address any additional concerns should WRC-95 allocate spectrum in the 6 GHz band for NGSO MSS.

Consequently, AAR's Petition should also be dismissed or denied because it provides no technical basis for its requested reconsideration of the Commission's WRC-95 Report.¹⁶

IV. CONCLUSION

AAR's Petition for Partial Clarification and Reconsideration of the Commission's WRC-95 Report is untimely and premature. Moreover, no technical support is provided for AAR's claim. For these reasons, as discussed above, the AAR's Petition for Partial Clarification and Reconsideration must be dismissed or denied.

¹⁶ See e.g., Additional Private Radio Service, 61 RR 2d 276, 279 (1986) ("bare disagreement, absent new facts and arguments properly submitted, is insufficient grounds for granting reconsideration").

Respectfully submitted,

LORAL/QUALCOMM PARTNERSHIP, L.P.

By: John T. Scott, III

John T. Scott, III
William D. Wallace
Crowell & Moring
1001 Pennsylvania Avenue N.W.
Washington, D.C. 20004-2505
(202) 624-2500

By: Leslie A. Taylor

Leslie A. Taylor
Leslie Taylor Associates
6800 Carlynn Court
Bethesda, MD 20817-4302
(301) 229-9341

Its Attorneys

August 10, 1995

CERTIFICATE OF SERVICE

I, Andrew F. Taylor, hereby certify that on this 10th day of August, 1994, copies of the foregoing "Opposition of Loral/QUALCOMM Partnership, L.P." were mailed, postage prepaid, to the following:

Scott Blake Harris, Esq.
Bureau Chief
Federal Communications Commission
2000 M Street, N.W.
Room 830
Washington, D.C. 20554

Tom Tycz, Division Chief
Satellite & Radio
Communication Division
Federal Communications Commission
2000 M Street N.W.
Room 811
Washington, D.C. 20554

Regina Keeney, Esq., Chief
Wireless Bureau
Federal Communications Commission
2000 M Street N.W.
Washington, D.C. 20554

William E. Kennard, Esq.
General Counsel
Federal Communications Commission
1919 M Street, N.W.
Room 614
Washington, D.C. 20554

Ralph A. Haller
Wireless Bureau
Federal Communications Commission
2000 M Street N.W.
Washington, D.C. 20554

Robert McNamara
Wireless Bureau
Federal Communications Commission
2000 M Street N.W.
Washington, D.C. 20554

Cecily Holiday
Deputy Division Chief
International Bureau
Federal Communications Commission
2000 M Street, N.W.
Room 520
Washington, D.C. 20554

William Luther
Branch Chief
International Bureau
Federal Communications Commission
2000 M Street, N.W.
Room 804

Thomas Walsh
International Bureau
Federal Communications Commission
2000 M Street, N.W.
Room 800
Washington, D.C. 20554

Damon C. Ladson
International Bureau
Federal Communications Commission
2000 M Street, N.W.
Room 803
Washington, D.C. 20554

Richard Parlow
NTIA
U.S. Department of Commerce
14th and Constitution Avenue, N.W.
Washington, D.C. 20230

Thomas J. Keller
Verner, Liipfert, Bernhard,
McPherson & Hand, Chartered
901 15th Street, N.W.
Suite 700
Washington, D.C. 20005

Nancy J. Thompson
General Attorney
COMSAT Mobile Communications
22300 COMSAT Drive
Clarksburg, MD 20871

Leonard Raish
Fletcher, Heald & Hildreth
11th Floor
1300 North 17th Street
Rosslyn, VA 22209

Jill Abeshouse Stern, Esq.
Shaw, Pittman, Potts & Trowbridge
2300 N Street, N.W.
Second Floor
Washington, D.C. 20037

International Transcription Service,
Inc.
2100 M Street, N.W.
Suite 150
Washington, D.C. 20037

Peter A. Rohrbach
Julie T. Barton
Kyle Dixon
Hogan & Hartson L.L.P.
555 13th Street, N.W.
Washington, D.C. 20004

Robert M. Gurss
Wilkes, Artis, Hedrick & Lane
1666 K Street, N.W.
Suite 1100
Washington, D.C. 20006

Jolene M. Molitoris
Administrator
Federal Railroad Administration
U.S. Department of Transportation
400 Seventh Street, S.W.
Washington, D.C. 20590

Jeffrey L. Sheldon
General Counsel
UTC
1140 Connecticut Ave. N.W.
Suite 1140
Washington, D.C. 20036

Robert A. Mazer
Rosenman & Colin
1300 19th Street, N.W.
Suite 200
Washington, D.C. 20036

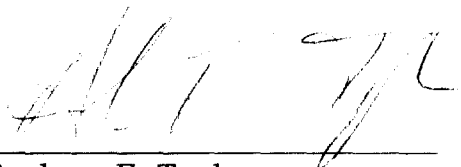
Barry Lambergman
Manager, Satellite Regulatory
Affairs
Motorola, Inc.
1350 I Street, N.W. Suite 400
Washington, D.C. 20005

Raul R. Rodriguez
Stephen D. Baruch
Leventhal, Senter & Lerman
2000 K Street, N.W.
Suite 600
Washington, D.C. 20006

William R. Lye
President, National Spectrum
Managers Assoc., Inc.
RR 7 Box 87
Fulton, NY 13069

George M. Kizer
Chairman
Telecommunications Industry Assoc.
2500 Wilson Blvd.
Suite 300
Arlington, VA 22201

Robert J. Miller
Jeffrey D. Jacobs
Gardere & Wynne, L.L.P.
1601 Elm Street
Suite 3000
Dallas, TX 75201



Andrew F. Taylor